

SUBJECT: POST-EMPLOYMENT RESTRICTIONS OF CONSULTANT

SUMMARY:

A former employee of the Department of Education would not be prohibited from consulting with state and local agencies, including the Department of Education.

QUESTION:

A former employee of the Department of Education was employed on the temporary payroll as a staff member in the student assessment unit in the Office of Research. She was terminated as a temporary employee on February 1, 1992. She questions whether she may offer her services as a consultant to state agencies, including the Department of Education, as well as school districts, higher education institutions, and private organizations.

DISCUSSION:

This opinion is rendered in response to a letter dated February 6, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-755 provides:

A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, 1992, may not for a period of one year after terminating his public service or employment:

- (1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or
- (2) accept employment if the employment:
  - (a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and
  - (b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

This prohibition concerns any employee who was employed by a public agency within South Carolina on or after January 1, 1992. This restriction includes a prohibition against serving as a

lobbyist before the former agency or representing clients before that agency for a period of one year on matters on which the employee directly and substantially participated. It does not appear that the agency with which the former employee was associated regulates, therefore, the restrictions contained in Section 8-13-755(2) would not apply.

The State Ethics Commission knows of no restrictions, other than those outlined in Section 8-13-755(1), which would restrict consulting work by the former employee.